

EXHIBIT H

From: owner-ext-track3defendants@groups.jonesday.com on behalf of [Page Poerschke](#)
To: [Kate Swift](#)
Cc: [2804 Discovery, MDL](#); [MDL 2804](#); EXT-TRACK3DEFENDANTS@groups.jonesday.com; Livingston@marcus-shapira.com; [External User - Andy Keyes](#); mike@farrellfuller.com; SPyser@wc.com; [Chris Eppich](#) (ceppich@cov.com); [David R. Cohen](#) (David@SpecialMaster.Law); [Blake, Richard](#); [Mahady, Joseph J](#)
Subject: RE: CT3: McCann + Rafalski depositions
Date: Thursday, June 24, 2021 10:06:26 AM
Attachments: [image001.png](#)
[image002.png](#)
[2020-07-15 Craig McCann Deposition Exhibits.pdf](#)
[Stipulated Protective Order - Madison County.PDF](#)

**** External mail ****

Kate

The exhibits to Dr. McCann's Ohio AG deposition are attached. I am also recirculating the protective order in that case as we have been asked to remind everyone to abide by its terms.

Page A. Poerschke

Of Counsel

Securities and Business Litigation

Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr & Mougey, P.A.

205-401-2373

ppoerschke@levinlaw.com



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From: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>

Sent: Wednesday, June 23, 2021 12:41 PM

To: MDL 2804 <MDL2804@motleyrice.com>

Subject: FW: CT3: McCann + Rafalski depositions

From: Page Poerschke <ppoerschke@levinlaw.com>

Sent: Wednesday, June 23, 2021 5:40:24 PM

To: Kate Swift <kate.swift@bartlitbeck.com>

Cc: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com <EXT-TRACK3DEFENDANTS@groups.jonesday.com>; Scott D. Livingston <Livingston@marcus-shapira.com>; External User - Andy Keyes <AKeyes@wc.com>; Fuller, Mike <mike@farrellfuller.com>; Pyser, Steven <SPyser@wc.com>; Chris Eppich (<ceppich@cov.com>) <ceppich@cov.com>; Monaghan, Meghan <mmonaghan@cov.com>; David R. Cohen (<David@SpecialMaster.Law>) <david@specialmaster.law>; Blake, Richard <rblake@mcdonaldhopkins.com>; Mahady, Joseph J <JMahady@ReedSmith.com>
Subject: RE: CT3: McCann + Rafalski depositions

CAUTION:EXTERNAL

Kate the appendices to Dr. McCann's Ohio AG report are in the link below. I am still working to get the exhibits to the deposition.

<https://spaces.hightail.com/space/sa35vPoWPW>

Page A. Poerschke

Of Counsel

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From: Kate Swift <kate.swift@bartlitbeck.com>

Sent: Monday, June 21, 2021 4:50 PM

To: Page Poerschke <ppoerschke@levinlaw.com>; Mike Fuller <Mike@FarrellFuller.com>

Cc: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com; Scott D. Livingston <Livingston@marcus-shapira.com>; External User - Andy Keyes <AKeyes@wc.com>; Pyser, Steven <SPyser@wc.com>; Chris Eppich (<ceppich@cov.com>) <ceppich@cov.com>; Monaghan, Meghan <mmonaghan@cov.com>; David R. Cohen (<David@SpecialMaster.Law>) <david@specialmaster.law>; Blake, Richard <rblake@mcdonaldhopkins.com>; Mahady, Joseph J <JMahady@ReedSmith.com>

Subject: RE: CT3: McCann + Rafalski depositions

Thank you, Page. Can you please also provide Dr. McCann's appendices to the OH AG report? If you send them to me by FTP, I can get them where they need to go. Thanks.

From: Page Poerschke <ppoerschke@levinlaw.com>

Sent: Monday, June 21, 2021 11:52 AM

To: Kate Swift <kate.swift@bartlitbeck.com>; Mike Fuller <Mike@FarrellFuller.com>

Cc: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com; Scott D. Livingston <Livingston@marcus-shapira.com>; External User - Andy Keyes <AKeyes@wc.com>; Pyser, Steven <SPyser@wc.com>; Chris Eppich (<ceppich@cov.com>) <ceppich@cov.com>; Monaghan, Meghan <mmonaghan@cov.com>; David R. Cohen (<David@SpecialMaster.Law>) <david@specialmaster.law>; Blake, Richard <rblake@mcdonaldhopkins.com>; Mahady, Joseph J <JMahady@ReedSmith.com>

Subject: RE: CT3: McCann + Rafalski depositions

Kate

The McCann Report and transcripts from the Ohio AG case are attached.

Page A. Poerschke

Of Counsel

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From: Kate Swift <kate.swift@bartlitbeck.com>

Sent: Monday, June 21, 2021 7:27 AM

To: Mike Fuller <Mike@FarrellFuller.com>; Page Poerschke <ppoerschke@levinlaw.com>

Cc: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com; Scott D. Livingston <Livingston@marcus-shapira.com>; External User - Andy Keyes <AKeyes@wc.com>; Pyser, Steven

<SPyser@wc.com>; Chris Eppich (ceppich@cov.com) <ceppich@cov.com>; Monaghan, Meghan <mmonaghan@cov.com>; David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>; Blake, Richard <rblake@mcdonaldhopkins.com>; Mahady, Joseph J <JMahady@ReedSmith.com>
Subject: RE: CT3: McCann + Rafalski depositions

Mike and Page,

ABDC, Cardinal, McKesson, and Miami Luken, whose counsel are copied here, have consented to the sharing of Craig McCann's reports and transcripts from the Ohio AG case. As these are the only defendants addressed in McCann's Ohio AG opinions, we ask that plaintiffs provide these materials as soon as possible.

In addition, we still have not received from plaintiffs a list of cases and defendants addressed by plaintiffs' remaining Track 3 experts, despite multiple requests. We ask that plaintiffs provide this information, for Catizone, Alexander, Cutler, Keyes, Lembke, and Malone, this week.

Thanks.

BartlitBeck LLP

Katherine M. Swift | p: 312.494.4405 | c: 773.531.6118 | Kate.Swift@BartlitBeck.com | Courthouse Place, 54 West Hubbard Street, Chicago, IL 60654

This message may contain confidential and privileged information. If it has been sent to you in error, please reply to advise the sender of the error and then immediately delete this message.

From: Mike Fuller <Mike@FarrellFuller.com>

Sent: Wednesday, June 9, 2021 8:02 AM

To: Kate Swift <kate.swift@bartlitbeck.com>; Page Poerschke <ppoerschke@levinlaw.com>

Cc: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804

<MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com; Scott D. Livingston

<Livingston@marcus-shapira.com>; External User - Andy Keyes <AKeyes@wc.com>; Pyser, Steven

<SPyser@wc.com>; Chris Eppich (ceppich@cov.com) <ceppich@cov.com>; Monaghan, Meghan

<mmonaghan@cov.com>; David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>

Subject: RE: CT3: McCann + Rafalski depositions

Kate, please see the attached report.

We do not yet have possession of the deposition transcript. If CAH or MCK have possession we have no objection to them providing that to you as long as the include us as well.



Michael J. Fuller, Jr.

Farrell & Fuller

1311 Ponce De Leon, Suite 202

San Juan, PR 00907

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From: Kate Swift <kate.swift@bartlitbeck.com>

Sent: Wednesday, June 9, 2021 12:16 AM

To: Page Poerschke <ppoerschke@levinlaw.com>; Mike Fuller <Mike@FarrellFuller.com>

Cc: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com; Scott D. Livingston <Livingston@marcus-shapira.com>; External User - Andy Keyes <AKeyes@wc.com>; Pyser, Steven <SPyser@wc.com>; Chris Eppich (<ceppich@cov.com>) <ceppich@cov.com>; Monaghan, Meghan <mmonaghan@cov.com>; David R. Cohen (<David@SpecialMaster.Law>) <david@specialmaster.law>

Subject: Re: CT3: McCann + Rafalski depositions

Mike,

Can you please send us Rafalski's report and transcript from the Georgia case ASAP? Thanks.

Kate

BartlitBeck LLP

Katherine M. Swift | p: [312.494.4405](tel:312.494.4405) | c: [773.531.6118](tel:773.531.6118) | Kate.Swift@BartlitBeck.com | Courthouse Place, [54 West Hubbard Street, Chicago, IL 60654](https://www.google.com/maps/place/54+West+Hubbard+Street,+Chicago,+IL+60654)

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On Jun 7, 2021, at 6:58 AM, Kate Swift <kate.swift@bartlitbeck.com> wrote:

Page and Mike,

Cardinal and McKesson, whose counsel are copied here, have consented to the sharing of Rafalski's and McCann's reports and transcripts from the Georgia (Popple) and Ohio

AG cases. As Cardinal and McKesson are the only two defendants addressed in Rafalski's Georgia opinions, we ask that plaintiffs provide the report and transcript from the Georgia case as soon as possible.

In addition, I inadvertently omitted Catizone from my email below. Please provide the list of cases and defendants Catizone has addressed outside Track 3 as well. We ask that plaintiffs provide this information, for Catizone, Alexander, Cutler, Keyes, Lembke, and Malone, as soon as possible.

Thank you.

BartlitBeck LLP

Katherine M. Swift | p: 312.494.4405 | c: 773.531.6118 | Kate.Swift@BartlitBeck.com | Courthouse Place, 54 West Hubbard Street, Chicago, IL 60654

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From: Kate Swift

Sent: Friday, June 4, 2021 4:08 PM

To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>; Scott D. Livingston <Livingston@marcus-shapira.com>

Cc: Page Poerschke <ppoerschke@levinlaw.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com

Subject: RE: CT3: McCann + Rafalski depositions

Plaintiffs' counsel,

Based on our call just now with David, it is our understanding that Rafalski and McCann offered reports in the following non-MDL cases—and no others—as to the following non-Track 3 defendants:

Rafalski:

Popple (Georgia)

- McKesson
- Cardinal

New York

- Cardinal
- McKesson
- ABDC
- Allergan

- Janssen
- Mallinckrodt
- Endo
- Teva

McCann:

Ohio AG

- McKesson
- Cardinal
- ABDC
- Miami Luken

New York:

- ABDC
- Cardinal
- McKesson
- Anda
- PSS World Medical
- Kinray Inc
- Bellco Drug Corp
- Rochester Drug Co-op

Please let us know if this is incorrect.

Please provide this same information for plaintiffs' remaining Track 3 experts, Alexander, Cutler, Keyes, Lembke, and Malone.

Thanks.

From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Friday, June 4, 2021 2:10 PM
To: Kate Swift <kate.swift@bartlitbeck.com>; Scott D. Livingston <Livingston@marcus-shapira.com>
Cc: Page Poerschke <ppoerschke@levinlaw.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com
Subject: Re: CT3: McCann + Rafalski depositions

Kate and Paige, let's get on a telecon at 3:30p EST. Include others if you want.

-d

Dial-in Number: 1.888.346.3950

Participant Entry Code: 7763-3882#

=====

This email sent from:
David R. Cohen Co. LPA
24400 Chagrin Blvd., Suite 300
Cleveland, OH 44122
216-831-0001 tel
866-357-3535 fax
www.SpecialMaster.law

From: Kate Swift <kate.swift@bartlitbeck.com>
Sent: Friday, June 4, 2021 3:06 PM
To: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>; Scott D. Livingston <Livingston@marcus-shapira.com>
Cc: Page Poerschke <ppoerschke@levinlaw.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com <EXT-TRACK3DEFENDANTS@groups.jonesday.com>
Subject: RE: CT3: McCann + Rafalski depositions

David,

The pharmacies do not object to the sharing of reports and transcripts in any case where we are defendants (I believe that is only New York). The pharmacy defendants do not control any other defendants. In the cases where we are not defendants (Ohio and Georgia, for example), we do not even know which defendants' information is contained in these experts' reports. Plaintiffs have never shared even that information with us.

We suggested redactions of whatever minimal confidential information may be contained in these reports/transcripts but not already in our possession—something plaintiffs know but we do not—as a way around the issue. As you have said before, we are entitled to this information. We do not believe providing it to us requires you to override any other court's order.

From: David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Sent: Friday, June 4, 2021 1:47 PM
To: Scott D. Livingston <Livingston@marcus-shapira.com>; Kate Swift <kate.swift@bartlitbeck.com>
Cc: Page Poerschke <ppoerschke@levinlaw.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com; David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Subject: Re: CT3: McCann + Rafalski depositions

Kate, while I generally agree with you, I cannot "override" another Court's order. Plaintiffs write that "Plaintiffs requested permission from all parties in the NY litigation, however, to date, no defendant has responded." You are amongst these defendants, so I don't understand why the defendants can't quickly respond.

-d

=====

This email sent from:
David R. Cohen Co. LPA
24400 Chagrin Blvd., Suite 300
Cleveland, OH 44122
216-831-0001 tel
866-357-3535 fax
www.SpecialMaster.law

From: Scott D. Livingston <Livingston@marcus-shapira.com>
Sent: Friday, June 4, 2021 2:14 PM
To: Kate Swift <kate.swift@bartlitbeck.com>
Cc: Page Poerschke <ppoerschke@levinlaw.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-TRACK3DEFENDANTS@groups.jonesday.com <EXT-TRACK3DEFENDANTS@groups.jonesday.com>; David R. Cohen (David@SpecialMaster.Law) <david@specialmaster.law>
Subject: Re: CT3: McCann + Rafalski depositions

Sent from my iPhone

On Jun 4, 2021, at 1:56 PM, Kate Swift <kate.swift@bartlitbeck.com> wrote:

**** External mail ****

Thanks, Page. Special Master Cohen,

With respect to the Track 3 experts' prior reports/transcripts, we have no reason to think that those contain confidential information about defendants in other cases (either about their systems or otherwise) that is substantively different from the information in the experts' Track 1 reports, which all of us already have, and much of which were filed on the

public docket in Track 1. Indeed, plaintiffs have emphasized that these reports are similar to those in our cases. Moreover, the non-Track 3 defendants' confidential documents have all been produced in the MDL. We do not believe other cases' protective orders (which are typically based on the MDL protective order) should serve as a roadblock to production.

If there is truly confidential information in these reports and transcripts that the pharmacies do not already possess, we expect that it is minimal. Plaintiffs should have promptly redacted that information and produced the materials to us weeks ago. We ask that Plaintiffs do so by tonight or tomorrow at the latest. It is important to us to be able to see how these experts' opinions differ depending on the parties the plaintiffs choose to sue.

Thanks,
Kate

From: Page Poerschke <ppoerschke@levinlaw.com>

Sent: Friday, June 4, 2021 11:57 AM

To: Kate Swift <kate.swift@bartlitbeck.com>

Cc: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>; MDL 2804 <MDL2804@motleyrice.com>; EXT-
TRACK3DEFENDANTS@groups.jonesday.com; david@specialmaster.law

Subject: RE: CT3: McCann + Rafalski depositions

Kate and SM Cohen

June 11th works for the deposition of Dr. McCann and we will plan to make him available all day. With respect to prior reports and transcripts, Plaintiffs requested permission from all parties in the NY litigation, however, to date, no defendant has responded. All plaintiffs in that litigation, including the AG, have granted permission. We are also in the process of seeking permission from all parties to the Ohio litigation. The Ohio Plaintiffs have granted permission. If we obtain permission from the Ohio Defendants, it is our understanding that all CT3 Parties will need to sign Exhibit A to the Ohio Protective Order (attached) in order for us to be able to produce the Ohio materials.

Page A. Poerschke

Of Counsel

Securities and Business Litigation

Levin, Papantonio, Rafferty, Proctor, Buchanan, O'Brien, Barr & Mougey, P.A.

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<image001.png>

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From: 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>
Sent: Friday, June 4, 2021 8:53 AM
To: MDL 2804 <MDL2804@motleyrice.com>
Subject: FW: CT3: McCann + Rafalski depositions

CAUTION: This email message is **EXTERNAL**.

From: David R. Cohen (David@SpecialMaster.Law)
<david@specialmaster.law>
Sent: Friday, June 4, 2021 1:49:12 PM
To: Kate Swift <kate.swift@bartlitbeck.com>; 2804 Discovery, MDL <mdl2804discovery@motleyrice.com>
Cc: EXT Track3Defendants <EXT-TRACK3DEFENDANTS@groups.jonesday.com>
Subject: Re: CT3: McCann + Rafalski depositions

CAUTION:EXTERNAL

I look forward to a response from Plaintiffs in short order.

-d

=====
This email sent from:
David R. Cohen Co. LPA
24400 Chagrin Blvd., Suite 300
Cleveland, OH 44122
216-831-0001 tel
866-357-3535 fax
www.SpecialMaster.law

From: Kate Swift <kate.swift@bartlitbeck.com>
Sent: Friday, June 4, 2021 8:50 AM
To: mdl2804discovery@motleyrice.com
<mdl2804discovery@motleyrice.com>
Cc: David R. Cohen (David@SpecialMaster.Law)
<david@specialmaster.law>; EXT Track3Defendants <EXT-TRACK3DEFENDANTS@groups.jonesday.com>
Subject: RE: CT3: McCann + Rafalski depositions

Counsel,

We have not received a response to our email below about McCann's deposition, or to the attached email about Rafalski's deposition. Those depositions are slated to occur next week, but plaintiffs still have not produced reports or transcripts from other opioids cases, in particular, state cases where we are not defendants. We need those materials immediately to prepare for these depositions. We have copied Special Master Cohen in hopes that he can facilitate production of these materials as quickly as possible.

We also need to confirm the dates and length of these depositions, but those issues are slightly less urgent, as we have accepted the dates plaintiffs offered and are only seeking the time we are entitled to under SM Cohen's order on repeat depositions. Thanks.

BartlitBeck LLP

Katherine M. Swift | p: 312.494.4405 | c: 773.531.6118 | Kate.Swift@BartlitBeck.com |
Courthouse Place, 54 West Hubbard Street, Chicago, IL 60654

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From: Kate Swift
Sent: Wednesday, June 2, 2021 12:46 PM
To: mdl2804discovery@motleyrice.com
Cc: EXT Track3Defendants <EXT-TRACK3DEFENDANTS@groups.jonesday.com>
Subject: CT3: McCann deposition

Counsel,

I write to confirm that the Pharmacy Defendants will take Craig McCann's Track 3 deposition on June 11th starting at 9:00 am (EDT). Given that McCann offers opinions on two new distribution flagging methods, and a

whole set of dispensing opinions that have never been offered before, SM Cohen's prior ruling regarding re-deposition of expert witnesses gives each Defendant 1.75 hours of deposition time for a total of 8.75 hours. Defendants may not need all of this time but we wanted to make sure that, if necessary, McCann is available for the full amount of time on June 11th.

Please also confirm that plaintiffs will produce McCann's prior expert reports and transcripts from other cases this week, which we have been requesting for some time.

Thank you.

BartlitBeck LLP

Katherine M. Swift | p: 312.494.4405 | c: 773.531.6118 | Kate.Swift@BartlitBeck.com |
Courthouse Place, 54 West Hubbard Street, Chicago, IL 60654

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